



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2015-0670; FRL-9942-31-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; 2008 Ozone NAAQS Interstate Transport for Colorado, Montana, North Dakota and South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) submissions from the states of Colorado, Montana, North Dakota and South Dakota that are intended to demonstrate that the SIP for each respective state meets certain interstate transport requirements of the Clean Air Act (Act or CAA) for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). These submissions address the requirement that each SIP contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA is approving these SIPs for all four states as containing adequate provisions to ensure that air emissions in the states do not significantly contribute to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification Number EPA-R08-OAR-2015-0670. All documents in the docket are listed on the

<http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202-1129.

EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, U.S.

Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 23, 2015, the EPA proposed to approve submittals from Colorado, Montana, North Dakota and South Dakota as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS (80 FR 72937). An explanation of the CAA requirements, a detailed analysis of the states' submittals, and the EPA's rationale for approval of each submittal were all provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on December 23, 2015. The EPA received no comments on the proposal.

II. Final Action

The EPA is approving the following submittals as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS: Colorado's December 31, 2012 submission; Montana's January 3, 2013 submission; North Dakota's March 8, 2013 submission; and South Dakota's May 30, 2013 submission. This action is being taken under section 110 of the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state actions, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law provisions as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 25, 2016.

Signed: Debra H. Thomas,
Acting Regional Administrator,
Region 8.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart G--Colorado

2. Section 52.352 is amended by adding paragraph (d) to read as follows:

§52.352 Interstate transport.

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(d) Addition to the Colorado State Implementation Plan of the Colorado Interstate Transport SIP regarding 2008 Ozone Standards for both of the CAA section 110(a)(2)(D)(i)(I) requirements submitted to EPA on December 31, 2012.

Subpart BB--Montana

3. Section 52.1393 is amended by adding paragraph (c) to read as follows:

§52.1393 Interstate transport requirements.

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(c) EPA is approving both elements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS, which was submitted to EPA on January 3, 2013.

Subpart JJ--North Dakota

4. Section 52.1833 is amended by adding paragraph (e) to read as follows:

§52.1833 Section 110(a)(2) infrastructure requirements.

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(e) EPA is approving both elements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS, which was submitted to EPA on March 8, 2013.

Subpart QQ--South Dakota

5. Section 52.2170, paragraph (e), is amended by adding the entry “XIX. Section 110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS” to read as follows:

§52.2170 Identification of plan.

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(e) * * *

Rule title	State effective date	EPA effective date	Final rule citation, date	Comments
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XIX. Section 110(a)(2)(D)(i)(I) Interstate Transport Requirements for the 2008 8-hour Ozone NAAQS	5/21/13	3/2/15	80 FR 4799, 1/29/15	

[FR Doc. 2016-02959 Filed: 2/12/2016 8:45 am; Publication Date: 2/16/2016]